

19-2439

TAX TYPE: PROPERTY TAX

TAX YEAR: 2019

DATE SIGNED: 3/23/2021

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH, Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION Appeal No. 19-2439 Parcel No. ##### Tax Type: Property Tax Tax Year: 2019 Judge: Phan
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This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must send the response via email to taxredact@utah.gov, or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Lawrence C. Walters, Commissioner

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT, Commercial Appraiser, COUNTY

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on November 24, 2020, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The issue before the Tax Commission at the Formal Hearing is Petitioner's (Property Owner's) appeal of the decision issued by the COUNTY Board of Equalization in regards to the fair

market value of the subject property for property tax assessment purposes, as of the lien date DATE, 2019.

2. The County Assessor had originally assessed the subject parcel for the lien date at issue at \$\$\$\$\$. The Property Owner appealed the 2019 assessed value to the COUNTY Board of Equalization and the COUNTY Board of Equalization upheld the value at \$\$\$\$\$. The Property Owner timely filed this appeal and the matter eventually proceeded to a Formal Hearing before the Utah State Tax Commission.

3. At the Formal Hearing, the Property Owner requested a reduction in value to \$\$\$\$\$. At the hearing, the representative for the County suggested the value should be lowered to \$\$\$\$\$.

4. When questioned at the hearing the parties provided the information that the subject property had been appealed for tax year 2018. Procedurally, it had been a late appeal and the late appeal was allowed on the basis of factual error. The County corrected the factual error by reducing the square footage. The County testified that the 2018 original assessed value had been \$\$\$\$\$ and the value was reduced to \$ based \$\$\$\$\$ on the correction to the square footage. However, the 2019 original assessed value was actually lower, at \$\$\$\$\$, than the 2018 reduction in value, so the County had not submitted an inflation adjusted value pursuant to Utah Code Sec. 59-2-1004 based on the 2018 value reduction. The parties also testified that no appeal had been filed for the subject property in tax years 2016 or 2017.

5. The subject property is located at SUBJECT PROPERTY, CITY-1, Utah. It is ##### acres of land improved with a two-story building that was constructed in YEAR. The building has #####-square feet of (X) space on the main level, which has been leased to a tenant. The second story, which is only accessible through the main level space, has #####-square feet, but is only suitable for storage. The Property Owner testified that the upstairs needed to be renovated and had no water, sewer or electricity and was in poor condition. The Property Owner also testified that the property is located in a blighted area where several businesses are now boarded up on that section of STREET. He did indicate that eventually the CITY-1 building would be built nearby. It was his testimony that the building was the oldest standing building in CITY-1 and it was unreinforced masonry on pillars. He also testified that after the lien date, in December 2019, he had replaced one section of the roof, which was just less than half of the entire roof. He testified that the replacement of this one section cost \$\$\$\$\$. He testified that the rest of the roof was not as bad as the section replaced, but it was bad and needed to be replaced. The County considered the building to be of construction class D and rental class D space.

6. The subject lot is long and narrow with very narrow frontage on STREET. The building itself is also long and narrow and takes up the entire width of the lot. There is no space between the subject building and the adjoining buildings, so the subject building has very little daylight. Also, there are only 4 or 5 off-street parking spaces on the subject parcel. These spaces are off of an alleyway at the rear of the subject property. In addition to the limited parking, a neighboring property owner was allowed

to block off the back alley just beyond the subject property, which made it so delivery trucks could no longer pull into the back alley area of the building because they can no longer turn around and get back out of the alley. This makes it more difficult for the delivery drivers to deliver to the property, as they have to stop and deliver from STREET or park around the corner from the building.

7. The Property Owner's requested value for the subject property was based on an income approach from the lease he currently had in place for the property. He explained that he has owned this property for ### years and it has always been very difficult to rent. He was able to lease the main floor space in 2017 to the current tenant who is using the space as a (X) and that was his ### tenant in the ### years. The Property Owner had provided the County a copy of the lease. He was renting the space for \$\$\$\$ per year on a modified gross basis. The lease was a ### month term and was signed on DATE, 2017. He also stated that he does not lease the upstairs and none of the upstairs square footage is included in the current lease. He testified that his expenses are %%% of his gross income on the lease. The rent on the lease is \$\$\$\$ per square foot modified gross.

8. At the Formal Hearing, the Property Owner submitted as evidence three rent comparable. These were for other (X) similar to the subject and the County did acknowledge they were comparable to the subject property, but one was a triple net lease and the others were modified gross leases. The Property Owner's lease comparables were the following:

Address	Lease Rate	Lease Square Footage	Year Built	Lease Terms
Subject: REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

9. The County's original assessed value was based on a lease rate of \$\$\$\$ per square foot and the following other income factors:¹

Potential Gross Income	REDACTED
REDACTED X REDACTED	REDACTED
Less %%% Vacancy	<u>(REDACTED)</u>
Effective Gross Income	REDACTED

¹ Respondent's Exhibit 1, pg. 1.

Less Expenses	%%%	<u>(REDACTED)</u>
Net Operating Income		REDACTED
NOI/CAP Rate %%% =		REDACTED
Add value for upper floor storage		REDACTED
Assessed Value Rounded		REDACTED

10. The Property Owner did not contest that it was appropriate to add \$\$\$\$ for the upstairs area.

11. At the hearing, the County's representative acknowledged that the Property Owner's lease comparables were good comparables for the subject because they were more similar (X). She stated that the comparables the County had used to support the original assessed value at the County Board of Equalization hearing had actually been (X) properties, so were therefore less comparable. She did, however, testify that the actual lease for the subject did appear to be below market, although she testified it was hard to determine what that would be for the subject due to the negative factors. In addition, she stated that the County would want to make appraisal adjustments to the modified gross leases for date of lease and other factors. In addition, she stated you would have to get the leases to the equivalent of a triple net lease or all to the equivalent of a modified gross lease to consider them in an income approach. At the hearing, she calculated that for the BUSINESS-1 lease to get to the equivalent of a triple net lease it would be a negative %%% adjustment, so the \$\$\$\$ modified gross lease would suggest a triple net lease rate of \$\$\$\$ per square foot. However, she cautioned since this lease was entered into in 2016 a time adjustment would need to be added to bring the lease rate up to a DATE, 2019 rate and this lease comparable was for a basement unit so another upward adjustment would be needed to be added for that.

12. For the Formal Hearing the County did offer some lease comparables of other (X) type properties. The County's appraiser had adjusted these comparables up to a modified gross lease basis and she concluded they indicated a lease rate for the subject of \$\$\$\$ per square foot on her modified gross basis.² These did not support the lease rate as high as the \$\$\$\$ per square foot triple net rate the County had used at the Board of Equalization. Two of the four lease comparables were leases that the Property Owner had provided to which the County's appraiser had made appraisal adjustments. The County appraiser's lease comparables and her concluded lease rate after appraisal adjustments were the following:

(X)	Lease	Size	Rent	Year	Adjusted Rent
BUSINESS-2	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
BUSINESS-3	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED

² Respondent's Exhibit 1, pg. 3.

BUSINESS-4 REDACTED REDACTED REDACTED REDACTED REDACTED

BUSINESS-5 REDACTED REDACTED REDACTED REDACTED REDACTED

13. At the hearing the County's appraiser did point out that the capitalization rate used by the County at the County Board of Equalization of %%% had been high or very conservative and this may have been appropriate to use with the more aggressive lease rate. The County's appraiser provided information supporting a market capitalization rate of %%% for the subject. The Property Owner did not provide any capitalization rate evidence to support a different rate. The County's income approach was based on the modified gross basis, so had higher expenses and included the tax rate, consistent with how she had made her adjustments to the lease comparables she had provided as evidence for the Formal Hearing. The County's income approach presented for the Formal Hearing was the following:³

Potential Gross Income (REDACTED)	REDACTED
Vacancy Percent	REDACTED
Vacancy Amount	<u>(REDACTED)</u>
Effective Gross Income	REDACTED
Expense Percent	REDACTED
Expense Amount	(REDACTED)
Management & Reserve Percent	REDACTED
Management & Reserve Amount	<u>(REDACTED)</u>
Net Operating Income	REDACTED
CAP Rate	REDACTED
Tax Rate	REDACTED
Total CAP Rate	REDACTED
Value By Income Approach	REDACTED
Nominal Value for Storage	<u>REDACTED</u>
Total Value	REDACTED

14. After reviewing the information submitted in this matter, the lease comparables offered by the Property Owner, the subject lease rate and all of the negative factors with the subject building support a rent rate lower than the \$\$\$\$ the County's appraiser had used in the income approach based on a modified gross lease basis and the factors support a reduction of the rent rate to the lowest end of the range of the County's adjusted rent comparables to \$\$\$\$\$. Because these comparables were adjusted to a type of modified gross rent, this \$\$\$\$ rent rate needs to be applied to the County's income approach. There was not enough evidence to support that the Property Owner's actual lease rate was a market lease rate or to support the higher than market capitalization rate that had been used in the County Board of Equalization in its triple net income approach. Additionally, the comparables the Property Owner offered, although more similar buildings, were not adjusted for lease date, basement units, etc., so that there could be similar comparisons regarding either triple net or modified gross rates.

³ Respondent's Exhibit 1.

15. In this appeal where both parties are arguing for a value different from that set by the County Board of Equalization, for either party's position to prevail, either party must demonstrate that the subject property's current value contains error; and provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes. Both parties have argued and presented evidence that the County Board of Equalization value was too high and contains error and the evidence does provide a sound evidentiary basis to support a lower value, although not as low as what the Property Owner was requesting..

16. Both parties were in agreement at the hearing that the County's lease rate was a little high due to negative factors with the property and also that an adjustment for the poor condition of the roof as of the lien date warranted an adjustment. The evidence supports a lower value for the subject as of the lien date. Substituting the \$\$\$\$ lease rate which was the lowest end of the adjusted lease comparables from the County, and all other factors being equal in the County's modified gross income approach results in a value for the subject property as follows:

Potential Gross Income (REDACTED)	REDACTED
Vacancy Percent	REDACTED
Vacancy Amount	<u>(REDACTED)</u>
Effective Gross Income	REDACTED
Expense Percent	REDACTED
Expense Amount	(REDACTED)
Management & Reserve Percent	REDACTED
Management & Reserve Amount	<u>(REDACTED)</u>
Net Operating Income	REDACTED
CAP Rate	REDACTED
Tax Rate	REDACTED
Total CAP Rate	REDACTED
Value By Income Approach	REDACTED
Nominal Value for Storage	<u>REDACTED</u>
Total	REDACTED

17. The Property Owner had testified that he had paid \$\$\$\$ to replace under half of the subject roof in December 2019, after the lien date, and the rest of the roof still needed to be replaced. It can be assumed that it will cost at least another \$\$\$\$ to replace the rest of the roof. Based on this an additional adjustment of \$\$\$\$ should be made for the condition of the roof as of the lien date DATE,

2019. Therefore, the evidence submitted in this matter indicates a value for the subject, rounded, of \$\$\$\$\$.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on DATE, unless otherwise provided by law.

For property tax purposes, “fair market value” is defined in Utah Code Ann. §59-2-102(13), as follows:

“Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part, below:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board...
- (3) In reviewing the county board’s decision, the commission may:
 - (a) admit additional evidence;
 - (b) issue orders that it considers to be just and proper; and
 - (c) make any correction or change in the assessment or order of the county board of equalization.
- (4) In reviewing evidence submitted to the commission by or on behalf of an owner or a county, the commission shall consider and weigh:
 - (a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county;
 - (b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;
 - (c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and
 - (d) if submitted, other evidence that is relevant to determining the fair market value of the property.
- (5) In reviewing the county board’s decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:
 - (a) the issue of equalization of property values is raised; and

- (b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

The assessment of property after there has been a reduction in value is addressed in Utah Code Ann. §59-2-301.4, below, in pertinent part:

- (1) As used in this section, "valuation reduction" means a reduction in the value of property on appeal if that reduction was made:
 - (a) within the three years before the DATE of the year in which the property is being assessed; and
 - (b) by a:
 - (i) county board of equalization in a final decision;
 - (ii) the commission in a final unappealable administrative order; or
 - (iii) a court of competent jurisdiction in a final unappealable judgment or order.
- (2) In assessing the fair market value of property subject to a valuation reduction, a county assessor shall consider in the assessor's determination of fair market value:
 - (a) any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal; and
 - (b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.
- (3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property...

Utah Code Ann. §59-2-109 addresses the burden of proof in certain circumstances, as follows:

- (1) As used in this section:
 - (a) "Final assessed value" means:
 - (i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by a county board of equalization after the appeal;
 - (ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:
 - (A) the commission, if the commission has issued a decision in the appeal; or
 - (B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or
 - (iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.
 - (b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection 59-2-1004(2)(c).
 - (c) "Qualified real property" means real property:
 - (i) that is assessed by a county assessor in accordance with Part 3, County Assessment;
 - (ii) for which:

- (A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;
 - (B) as a result of the appeal described in Subsection (1)(c)(ii)(A), a county board of equalization or the commission gave a final assessed value that was lower than the assessed value; and
 - (C) the assessed value for the current taxable year is higher than the inflation adjusted value; and
 - (iii) that, between DATE of the previous taxable year and DATE of the current taxable year, has not been improved or changed beyond the improvements in place on DATE of the previous taxable year.
- (2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:
- (a) substantial error in:
 - (i) for an appeal not involving qualified real property:
 - (A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;
 - (B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or
 - (C) if Subsection (3) applies, the original assessed value; or
 - (ii) for an appeal involving qualified real property, the inflation adjusted value; and
 - (b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.
- (3)
- (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:
 - (i) that is not qualified real property; and
 - (ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.
 - (b) For purposes of Subsection (3)(a), the following have the burden of proof:
 - (i) for property assessed under Part 3, County Assessment:
 - (A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or
 - (B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or
 - (ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.
 - (c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:
 - (i) the original assessed value shall lose the presumption of correctness;

- (ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and
 - (iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.
- (4)
 - (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.
 - (b) For purposes of Subsection (4)(a):
 - (i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county board of equalization presents evidence of or otherwise asserts a value that is greater than or equal to the inflation adjusted value; or
 - (ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.
 - (c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:
 - (i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or
 - (ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

In a proceeding before the Tax Commission, the burden of proof is generally only on the petitioner to support its position. However, where the respondent is requesting a value different from the subject property's current value but not higher than the value originally assessed, the respondent has the burden of proof to support its position. See *Nelson v. Bd. of Equalization of COUNTY*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); and *Fraughton v. Tax Commission*, 2019 UT App 6. For either party's position to prevail in this case, Utah Code. Ann. §59-2-109(2) provides that the party must: 1) demonstrate that the subject property's current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

CONCLUSIONS OF LAW

1. The Utah Constitution, Article XIII, Sec. 2 provides, "So that each person and corporation pays a tax in proportion to the fair market value of his, her or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this

Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate.”

2. Utah statutes implement the constitutional provision and provide that property tax is assessed on the basis of the property’s “fair market value” as of DATE of the tax year at issue pursuant to Utah Code Sec. 59-2-103. “Fair market value” is defined by statute as the “amount for which property would exchange hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.” See Utah Code Sec. 59-2-102.

3. Based on the information the parties presented at the hearing, the property was not the subject of a “valuation reduction” in 2016 or 2017, but was the subject of a valuation reduction in 2018. However, the original assessed value for 2019 was lower than the 2018 valuation reduction. Therefore, consideration needs to be given to Utah Code §59-2-301.4 or Utah Code §59-2-109 in this matter. When there has been a value reduction within three years prior to the tax year at issue, Utah Code §59-2-301.4 requires a county assessor to “consider in the assessor’s determination of fair market value: (a) any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal; and (b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.” In this case, the 2018 appeal was a late filed appeal allowed on the basis of factual error. It was determined the County record had an error regarding the square footage. If a late appeal is allowed because of factual error, the only change that could be made was to correct the factual error and make the change in value resulting from that correction.⁴ It appears that for 2019 the square footage correction had remained on the County’s records so was taken into account and the Assessor made a full review of the property, concluding a significantly lower value which is not precluded under Utah Code §59-2-301.4.

4. The County’s position at this hearing was that because the original assessed value for 2019 was lower than the valuation reduction for 2018, the County was not required to prepare an inflation adjusted value based on the 2018 valuation reduction and they had not done so. Technically, this position is incorrect as the County should have prepared an inflation adjusted value based on the 2018 valuation reduction. The requirement under Utah Code Subsection 59-2-109(1)(c)(ii)(C) is whether the current year assessed value is higher than the inflation adjusted value, not whether the current year assessed value is lower than the prior year’s value reduction. The inflation adjusted value could be higher or lower than the valuation reduction based on actual inflation or deflation that has occurred in the market. If this had been a period of deflation the inflation adjustment value may have been lower than the valuation reduction, so the fact that the 2019 original assessment was lower than the prior year’s value after the valuation reduction would not necessarily preclude this from being “qualified real property” as that is defined in

⁴ See Utah Admin. Rule R884-24P-66(13).

Utah Code Sec. 59-2-109. However, the evidence from the County submitted at this hearing was that this was a period of market inflation, meaning that values were increasing. The Commission then concludes in this appeal that if the County had prepared an inflation adjusted value, that value would have been higher than the 2018 value after the valuation reduction, therefore the 2019 assessed value for this property was lower than the inflation adjusted value, so this property was not “qualified real property.” Therefore, for either party’s position to prevail in this case, Utah Code. Ann. §59-2-109(2) provides that the party must: 1) demonstrate that the subject property’s current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property’s current value to the amount it proposes.

4. In this proceeding, both the County and the Property Owner were asking for a value lower than the value upheld by the County Board of Equalization. Upon review of all the evidence taken as a whole, the evidence does show error in the County Board’s value and supports a reduction in value.

Upon that basis, the value for the subject property as of the lien date at issue should be reduced to \$\$\$\$\$.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the value of the subject property as of the DATE, 2019 lien date to be \$\$\$\$\$. The COUNTY Auditor is hereby ordered to adjust its records accordingly. It is so ordered.

DATED this _____ day of _____, 2021.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.